

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

Alexis Templeton, Maureen Costello, )  
Brittany Ferrell, Steven Hoffman, )  
and Kira Hudson Banks, )

Plaintiffs, )

v. )

Sam Dotson, Chief of Police, )  
City of St. Louis, )  
Jon Belmar, Chief of Police )

County of St. Louis, )

No. 4:14-cv-2019

Capt. Ronald Johnson, Missouri )

Highway Patrol, in their official )

capacities and as directors of the Unified )

Command, )

Defendants. )

**MOTION FOR TEMPORARY RESTRAINING ORDER**

Plaintiffs, by and through counsel, request this court to grant an emergency hearing, order to show cause and a temporary restraining order and preliminary injunction directing specific action by Defendants to ensure that plaintiffs and other protesters are able to exercise their right to free speech in expressive activities and demonstrations to show solidarity for Michael Brown and other victims of police violence. In support thereof, Plaintiffs' state:

1. Plaintiffs incorporate by reference their Complaint for injunctive relief filed in conjunction with this Motion. Plaintiffs rely upon the Complaint, the Exhibits and Declarations filed herewith and the Memorandum of Law in Support of Plaintiffs' Motion.

2. The practices described in Plaintiffs' complaint, have resulted and will continue to result in the deprivation of free speech Plaintiffs and other demonstrators, causing irreparable harm to Plaintiffs and others similarly situated.

3. The constitutional rights of Plaintiffs will be denied, and irreparable harm will result, if the Court does not issue immediate relief in the form of issuing a Temporary Restraining Order enjoining Defendants from: refusing to wear visible identification; from declaring an "unlawful assembly" unless, consistent with Missouri law, there is evidence that six or more persons are gathered and have agreed to violate a criminal law through force or violence; from using chemical agents on citizens without clear warning and opportunity to exit, in a closed environment, against those who are not physically resisting, or to punish individuals based on the content of their speech; and ordering that such agents be employed only as a last resort to prevent significant threats to public safety and deployed in a manner designed to minimize impact.

4. Plaintiffs' First Amendment activities have been curtailed by intimidation, duress and threats to their safety from Defendants' activities including, among other things,

unwarranted use of force, targeting and punishment of demonstrators, and wrongful, punitive use chemical agents such as tear gas, mace and pepper spray.

5. Unless relief is granted, Plaintiffs and others similarly situated will be denied fundamental rights to free speech a freedom from unreasonable seizure guaranteed by the First and Fourth Amendments to the United States Constitution and Art. I, Sections 8, 9 and 10 of the Missouri Constitution, causing irreparable harm.

6. The balance of harms favors the freedom of speech of Plaintiffs and other demonstrators. The relief sought herein can be provided without undue harm or burden to Defendants, whereas irreparable harm will result if Plaintiffs speech rights are curtailed.

7. Plaintiffs have a likelihood of success on the merits in support of emergency injunctive relief.

8. The public interest in the right to freedom of speech supports emergency injunctive relief.

WHEREFORE, Plaintiffs pray that this court:

- (1) grant an immediate hearing and Order to Show Cause on this Petition;
- (2) issue emergency injunctive relief enjoining Defendants from failing to deploy officers to demonstrations without visible personal identification, including accurate name, law enforcement agency and, if applicable, badge number.

(3) issue emergency injunctive relief enjoining Defendants from declaring a gathering an unlawful assembly unless there is evidence that six or more people are knowingly assembled and in agreement with each other to violate any of the criminal laws of this state or of the United States with force or violence, as provided by RSMo 574.040(1).

(4) issue emergency injunctive relief enjoining Defendants from utilizing chemical agents except as a last resort to prevent significant threats to public safety;

(5) issue emergency injunctive relief enjoining Defendants from utilizing chemical agents on gatherings unless:

(a) they are preceded by clear and unambiguous warnings, and an opportunity for sufficient time for to pass for members of the gathering to heed the warning and exit the area;

(b) they are deployed in such a manner as to minimize impacts on the members of the gathering who are complying with lawful law enforcement commands;

(c) they are deployed in such a manner as to always allow for a continuing means of safe egress from an area.

(6) issue emergency injunctive relief enjoining Defendants from utilizing tear gas canisters or chemical agents on individuals or gatherings in a closed environment;

(7) issue emergency injunctive relief enjoining Defendants from utilizing tear gas canisters or chemical agents on individuals or gatherings to frighten members of a gathering or demonstration;

(8) issue emergency injunctive relief enjoining Defendants from utilizing chemical agents or physical violence on individuals being arrested when the individuals are not physically resisting arrest

(9) grant such other relief as this court deems just and equitable.

Dated: \_\_\_\_\_ day of \_\_\_\_\_, 2014

**Respectfully Submitted,**

/s/ Thomas Harvey

Thomas Harvey, MBE #61734  
Executive Director, Arch City Defenders  
812 N. Collins Alley  
St. Louis, MO 63102  
(855)724-2489 phone  
(855)724-2489 facsimile  
tharvey@archcitydefenders.org

/s/ Brendan Roediger

Brendan Roediger MBE #60585  
Saint Louis University Legal Clinic  
100 N. Tucker Blvd., Ste. 704  
St. Louis, MO 63101  
Phone: (314) 977-2778  
Fax: (314) 977-1180  
[broedige@slu.edu](mailto:broedige@slu.edu)

/s/ Denise D. Lieberman

Denise D. Lieberman, MBE #47013  
Senior Attorney, Advancement Project  
1220 L. Street NW, Suite 850  
Washington, D.C. 20005  
Phone: (314) 780-1833

Fax: (202) 728-9558

[dlieberman@advancementproject.org](mailto:dlieberman@advancementproject.org)

Justin D. Hansford\*

Professor of Law

St. Louis University

100 N. Tucker Blvd.

St. Louis, MO 63101

Phone: (314) 977-3481

[jhansford@slu.edu](mailto:jhansford@slu.edu)

\*licensed in Maryland

Nicole C. Lee, Esq.\*

The Lee Bayard Group, LLC

6930 Piney Branch Road, NW

Washington, DC 20012

(202)270-0774

[nicole@leebayard.com](mailto:nicole@leebayard.com)

\*Licensed in the District of Columbia

Bar #499275

L. KING DOWNING\*

2035 Second Avenue 5

New York, New York 10029

office/fax (212) 534-1081

[kingnetic@yahoo.com](mailto:kingnetic@yahoo.com)

\*licensed in New Jersey

Lic. #034901992

COUNSEL FOR PLAINTIFFS